

## **REMARKS**

### **Amendments**

#### ***Amendments to the Claims***

Applicant has amended the claims to incorporate the subject matter of dependent claims 3 and 16, which have been cancelled. Applicant has also amended the claims as set forth below in response to the objection to claim 1. No new matter has been added as a result of these amendments.

### **Objections**

#### ***Objections to the Claims***

The Examiner objected to claim 1 as containing informalities because some amendments to claim 1 appear to have been accidentally made when compared with the version of claim 1 submitted on May 5, 2006.

Upon review, Applicant's counsel discovered that the version of the claims submitted on November 14, 2005 were inadvertently used as the basis for the amendments in response to the last Office Action. Applicant's counsel regrets the confusion caused by the error, and has amended claims 1, 11, 14, 21, 27, 37 and 43 to reflect the November 14, 2005 amendments where appropriate in light of the additional amendments made to the claims.

### **Rejections**

#### ***Rejections under 35 U.S.C. § 103***

#### **Claims 1-10, 14-23, 27, 32-35, 37-38, and 40-45, and 47**

Claims 1-10, 14-23, 27, 32-35, 37-38, and 40-45, and 47 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson, U.S. Patent 5,598,474 in view of Anderl, et al., U.S. Patent 4,816,653 (both previously cited). Claims 3 and 16 have been cancelled.

Johnson digitizes a cardholder's fingerprint and stores the unique numeric representation of the fingerprint on an identification card. The Examiner is relying on Johnson as disclosing output of a first cryptographic processes that comprises a plurality

of authorization levels. However, Johnson does not disclose that the unique numeric representation comprises a plurality of authorization levels as claimed. Thus, the Examiner is relying on the principal of inherency in asserting that the unique numeric representation must comprise a plurality of authorization levels because the unique numeric representation can be associated with purchases of different amounts. Applicant respectfully reminds the Examiner that the principal of inherency cannot be established by probabilities or possibilities. Instead, the Examiner must provide a basis in fact or evidence that the inherent characteristic must flow from the prior art disclosure [MPEP 2112 IV].

In this case, the unique numeric representation only verifies that the person using the card for identification purposes is the legitimate holder of the card. The Examiner appears to be asserting that the unique numeric representation somehow authorizes purchases of different amounts because purchases of different amounts can be made using the card for identification. However, Johnson does not even suggest that the unique numeric representation can be used to enforce purchasing limits on the user. Moreover, Applicant respectfully reminds the Examiner that the phrase “associated with” is not synonymous with the word “comprises” as “comprises” is used in patent claims. There is nothing in Johnson that even suggests the unique numeric representation comprises a plurality of authorization levels. Therefore, Johnson cannot be properly interpreted as inherently disclosing that output from a first cryptographic process comprises a plurality of authorization levels as claimed by Applicant.

Furthermore, because the purpose of Johnson is to *prevent* the card from being used by more than one person, Johnson cannot be properly interpreted as disclosing that input to a first cryptographic process is data obtained from a particular user where the particular user is one of a plurality of authorized users as claimed by Applicant.

Anderl stores files on a card and protects the files with passwords, which are also stored on the card. Different levels of security require different passwords. In addition, the card’s serial number and a password for an application station are used to generate an authentication code that is also stored on the card. During transactions, the application station generates a code that it compares with the stored authentication code. Anderl does not teach or suggest that the authentication code comprises a plurality of authentication

levels as claimed by Applicant. Moreover, the authentication code is generated from a serial number and a password, neither of which are disclosed as equivalent to data obtained from a particular user of a plurality of users as claimed by Application.

Furthermore, neither Anderl's levels of security nor the associated file passwords can be properly equated with Applicant's claimed output from a first cryptographic process because neither the levels of security nor the file passwords are output by a cryptographic process.

Therefore, neither Johnson nor Anderl disclose 1) an output from a first cryptographic process that comprises a plurality of authorization levels, 2) that input to the first cryptographic process is data obtained from a particular user of a plurality of authorized users, or 3) that each authorization level that comprise the cryptographic output is associated with a different authorized user, as claimed by Applicant. Thus, the combination cannot be properly interpreted as disclosing the claimed elements.

Accordingly, the combination of Johnson and Anderl cannot render obvious Applicant's invention as claimed in claims 1, 2, 4-10, 14, 15, 17-23, 27, 32-35, 37-38, and 40-45, and 47, and Applicant respectfully requests the withdrawal of the rejection of the claims under 35 U.S.C. § 103(a) over the combination.

### **Claim 39**

Claim 39 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Johnson and Anderl in view of Reeder, U.S. Patent 6,014,636 (previously cited).

Reeder does not teach or suggest 1) an output from a first cryptographic process that comprises a plurality of authorization levels, 2) that input to the first cryptographic process is data obtained from a particular user of a plurality of authorized users, or 3) that each authorization level that comprise the cryptographic output is associated with a different authorized user, as claimed by Applicant in independent claim 37, from which claim 39 depends. Because the combination of Johnson and Anderl does not teach these limitations, the combination of Johnson, Anderl and Reeder cannot be properly interpreted as rendering obvious Applicant's invention as claimed in claim 39.

Accordingly, Applicant respectfully requests the withdrawal of the rejection of claim 39 under 35 U.S.C. § 103(a) over the combination of Johnson, Anderl and Reeder.

**Claims 11-12, 24-25, 36, 43, 46, and 57**

Claims 11-12, 24-25, 36, 43, 46, and 57 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Johnson and Anderl in view of Gordon, et al., U.S. Patent 6,289,323 (previously cited).

Gordon does not teach or suggest 1) an output from a first cryptographic process that comprises a plurality of authorization levels, 2) that input to the first cryptographic process is data obtained from a particular user of a plurality of authorized users, or 3) that each authorization level that comprise the cryptographic output is associated with a different authorized user, as claimed by Applicant in independent claims 1, 27 and 37, from which claims 11-12, 24-25, 36, 43, 46 and 57 depend. Because the combination of Johnson and Anderl does not teach these limitations, the combination of Johnson, Anderl and Gordon cannot be properly interpreted as rendering obvious Applicant's invention as claimed in claims 11-12, 24-25, 36, 43, 46 and 57.

Accordingly, Applicant respectfully requests the withdrawal of the rejection of claims 11-12, 24-25, 36, 43, 46 and 57 under 35 U.S.C. § 103(a) over the combination of Johnson, Anderl and Gordon.

**Claims 13, 26 and 28-31**

Claims 13, 26 and 28-31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Johnson and Anderl in view of Weissman, U.S. Patent 6,353,811 and Waite, et al., U.S. Patent 5,594,230 (both previously cited).

Neither Weissman nor Waite teach or suggest 1) an output from a first cryptographic process that comprises a plurality of authorization levels, 2) that input to the first cryptographic process is data obtained from a particular user of a plurality of authorized users, or 3) that each authorization level that comprise the cryptographic output is associated with a different authorized user, as claimed by Applicant in independent claims 1 and 27, from which claims 13, 26 and 28-31 depend. Because the combination of Johnson and Anderl does not teach these limitations, the combination of

Johnson, Anderl, Weissman and Waite cannot be properly interpreted as rendering obvious Applicant's invention as claimed in claims 13, 26 and 28-31.

Accordingly, Applicant respectfully requests the withdrawal of the rejection of claims 13, 26 and 28-31 under 35 U.S.C. § 103(a) over the combination of Johnson, Anderl, Weissman and Waite.

### **SUMMARY**

Claims 1, 2, 4-15, 17-47 and 57 are currently pending. In view of the foregoing amendments and remarks, Applicant respectfully submits that the pending claims are in condition for allowance. Applicant respectfully requests reconsideration of the application and allowance of the pending claims.

If the Examiner determines the prompt allowance of these claims could be facilitated by a telephone conference, the Examiner is invited to contact Sue Holloway at (408) 720-8300 x3476.

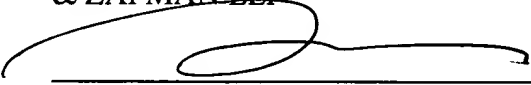
### **Deposit Account Authorization**

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Applicant hereby requests such extension.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR  
& ZAFMAN LLP

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Sheryl S. Holloway  
Attorney for Applicant  
Registration No. 37,850

12400 Wilshire Boulevard  
Seventh Floor  
Los Angeles, CA 90025-1026  
(408) 720-8300 x3476